

# London Borough of Bromley

Report No.  
DRR/01/00021

PART 1 - PUBLIC

Agenda  
Item No.

**5B**

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Title: **39 SELBY ROAD, LONDON SE20**  
**2 STOREY REAR EXTENSION & CONVERSION INTO 5 FLATS**

Decision Maker: **Plans Sub-Committee No.4 & Portfolioholder  
for Renewal & Recreation** Decision Date: **18 Feb 2010**

Decision Type: Non-Urgent Non-Executive Key

Budget/Policy Framework: Within policy and budget

Chief Officer: Chief Planner/Director of Legal & Democratic Services

Contact Officer: Tim Bloomfield, Development Control Manager & Horatio Chance, Solicitor  
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Ward: Crystal Palace

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## 1. SUMMARY

- 1.1 This property was extended and converted into flats in 2007 without planning permission. Planning permission has been refused and there are effective enforcement notices which were dismissed on appeal in 2008. Legal proceedings have been commenced but delays have been experienced in progressing the prosecution. It is considered that it would be appropriate to carry out works in default to secure compliance with the effective notices.

## 2. RECOMMENDATION

- 2.1 Authority be given to enter the land and carry out the necessary works in default to secure compliance with the effective enforcement notices and the costs incurred be recovered from the owner/leaseholder together with a legal charge registered.

### **3. COMMENTARY**

#### **3.1 The relevant background is summarised below.**

Complaints were received in 2006 that it was proposed to subdivide the property into flats. Investigations confirmed that a rear dormer extension had been constructed and that work had commenced on constructing a 2 storey rear extension without planning permission.

#### **3.2 The matter was reported to Plans Sub-Committee on 4/1/07 and enforcement action was authorised to remove the 2 storey rear extension. 2 enforcement notices were issued in April 2008 to remove the rear extension and cease the use of the property as 5 self contained flats. A retrospective planning application for the rear extension was refused in March 2008 (Ref. 07/03964).**

#### **3.3 The subsequent appeals were dismissed on 2/12/08. Legal proceedings were subsequently commenced to secure compliance with the effective notices. However, the first hearings have so far been adjourned on 5 occasions on medical grounds, and there is increasing concern that further delays may be experienced in progressing the prosecution and securing compliance.**

#### **3.4 In the circumstances it is considered that it would be appropriate to carry out works in default to ensure that the requirements of the effective enforcement notices are fully complied with. Estimates for the cost of the works involved have been requested and will be reported to the meeting verbally.**

#### **3.5 The demolition of the 2 storey rear extension is relatively straightforward and requires making good any damage to the original building and the removal of all building rubble as a result of the demolition.**

#### **3.6 Securing compliance with the second notice is likely to be more problematical as 4 of the 5 flats are currently occupied on short term tenancies. Before any works are carried out to remove all fittings associated with the conversion, the existing tenants will have to vacate the premises. This process may take some time in order to give the tenants sufficient time to find alternative accommodation. As the 2 storey extension provides living accommodation associated with some of the flats, then this part of the property would have to be vacated before any works commence.**

#### **3.7 The Appeal Inspector concluded that that the extension has no relationship to the original dwelling in that it appeared as a dominant, overbearing and featureless structure unlike any other extension in the locality. The Inspector went on to say that from the rear gardens of properties in this section of Selby Road it appears as an incongruous feature, drawing the eye and harming the outlook. It is possible to see the extension from Selby Road where its flat roof, bulk and featureless side elevation are at odds with the surrounding properties. The Inspector felt that the Development has led to unacceptable harm to the character and appearance of the locality contrary to Policies BE1 and H8 of the UDP. In conclusion it was stated that a condition requiring materials to match would not overcome the harm identified. Accordingly, it was on this basis the Council took the view to prosecute the Owner.**

### **4. LEGAL IMPLICATIONS**

#### **4.1 As has been mentioned in the body of the report the Council as Local Planning Authority can invoke its powers under the Town and Country Planning Act 1990 to enter the land in order to secure compliance with the effective notices. Reasonable notice must be given to the Owner and Occupiers, advising them of the Councils intention to take direct action but at the same time for the sake of equitableness the Owner should be afforded one last opportunity to seek compliance with the terms of the notices. Notwithstanding the**

subsequent events that have happened since service of the enforcement notices the Council must be seen to be acting lawfully and reasonably in all of the circumstances.

- 4.2 It is noted that four out of the five flats are currently tenanted. The Council will need to enter the land free from obstruction. It is a criminal offence for the Owner or Occupiers to obstruct Council Officers during the execution of such works, the penalty of which can lead to imprisonment or a fine.

It is not clear at this stage whether the Council would have an obligation to re-house those persons as “Housing Authority” should they present themselves as being homeless. The Council has a duty to consult with the individuals concerned. Assuming Authority is to be given I would recommend that the Councils Housing Department canvass the views of the individuals concerned to establish what the housing need is, if at all.

- 4.3 It may mean that a further report will have to be provided to Members before the works are executed if it transpires that there is in fact a housing need. Members should also be advised that there could be Human Rights implications flowing from a decision to take direct action, namely; the right to respect for family and private life under Article 8 of Part 1 of the Convention and Protection of Property under Article 1 Part II. However, until a full assessment is carried out by the Housing Department this is purely speculative.
- 4.4 In the event that direct action is authorised a Legal Charge will be registered against the property at H.M. Land Registry. The Owner will be responsible for paying the Councils costs incurred in connection with the above process.

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| <b>Non-Applicable Sections:</b>                       | Financial, Legal and Personnel Implications   |
| Background Documents:<br>(Access via Contact Officer) | Enforcement files contain exempt information, as defined in Schedule 12A of the Local Government (Access to Information) Act 1985, and are therefore not available for public inspection. |

Ref: H(DC)/TCB/ENF/06/850